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Date: January 2, 2007

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U.S. PATENT AND TRADEMARK OFFICE

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Client/Matter No.: NL 020328 (7790/442)

of Pages: 20

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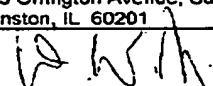
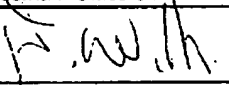
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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Attorney Docket No.	NL 020328 (7790/442)	RECEIVED
	Application Number	10/510,471	CENTRAL FAX CENTER
	Filing Date	OCTOBER 6, 2004	JAN 2 - 2007
	First Named Inventor	DENIS J. C. VAN OERS	
	Group Art Unit	2875	
	Examiner	LEE, GUIYOUNG	

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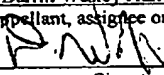
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Firm or Individual name	DARRIN W. HARRIS Registration No. 40,636 CARDINAL LAW GROUP 1603 Orrington Avenue, Suite 2000 Evanston, IL 60201		
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PATENT
Case No. NL 020328
(7790/442)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application of:

DENIS JOSEPH CAREL VAN OERS

Serial No.: 10/510,471

Filed: OCTOBER 6, 2004

For: LIGHTING UNIT

Examiner: LEE, GUIYOUNG

Group Art Unit: 2875

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant herewith respectfully presents a Brief on Appeal as follows:

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1. REAL PARTY IN INTEREST

The real party in interest is the assignee of record U.S. Philips Corporation, a Delaware corporation having an office and a place of business at 1251 Avenue of the Americas, New York, NY 10020-1104.

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2. RELATED APPEALS AND INTERFERENCES

Appellant and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

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3. STATUS OF CLAIMS

Claims 1-15 are currently pending in the present application, and claims 1, 2, 4-7, 9 and 10 are the claims on appeal. See, Claims Appendix.

Claims 1, 2, 6 and 7 stand finally rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,435,704 B1 to *Montet* et al.

Claims 4, 5, 9 and 10 stand finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,435,704 B1 to *Montet* in view of EP 0336478 to *Massen* et al.

Claims 3 and 8 stand finally objected to as being dependent upon a rejected base claim, but allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.

Claims 11-15 stand as being allowed.

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4. STATUS OF AMENDMENTS

Appellant filed an after final request for reconsideration under 37 C.F.R. §1.116 in response to a Final Office Action dated July 31, 2006. The request for reconsideration did not contain an amendment to claims 1-15.

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5. SUMMARY OF THE CLAIMED SUBJECT MATTER

As illustrated in FIG. 1 and claimed by independent claims 1 and 6, a lighting unit 1 is provided with a concave reflector 2, an elongate light source 30, and a cup-shaped axially positioned cap 5. Concave reflector 2 has an axis of symmetry 3 and a light emission window 21 bounded by an edge 20 of reflector 2 which surrounds axis 3 transversely thereto. Elongate light source 30 is axially arranged substantially on axis of symmetry 3 and is accommodated in a holder 4 opposite light emission window 21. Cap 5 serves as an optical screening means that partly surrounds light source 30 for intercepting unreflected light rays. See, U.S. Patent Application Serial No. 10/510,471 at page 3, lines 13-26.

Further provided is a screening ring 50 as illustrated in FIG. 1. Cap 5 is surrounded at a distance d by screening ring 50, which extends over a height h in the direction of light emission window 21 as encompassed by independent claim 1. This embodiment exemplifies cap 5 intercepting a first portion of unreflected light rays from light source 30 and screening ring 50 intercepting a second portion of unreflected light rays from light source 30 as encompassed by independent claim 6. Screening ring 50 can be extended at a side facing holder 4 up to a plane transverse to axis of symmetry 3 and defined by cap 5 as encompassed by dependent claims 2 and 7. See, U.S. Patent Application Serial No. 10/510,471 at page 3, line 27 and at page 4, line 2.

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FIG. 2 illustrates a conical version 51 of screening ring 50 having an apex angle β_1 , and FIG. 3 illustrates a conical version 52 of screening ring 50 having an apex angle β_2 . See, *U.S. Patent Application Serial No. 10/510,471* at page 4, lines 3-7.

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6. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Appellant appeals the final rejection of claims 1, 2, 6 and 7 under 35 U.S.C.

§102(e) as being anticipated by U.S. Patent No. 6,435,704 B1 to *Montet et al.*

Appellant appeals the final rejection of claims 4, 5, 9 and 10 under 35 U.S.C.

§103(a) as being unpatentable over U.S. Patent No. 6,435,704 B1 to *Montet* in view of
EP 0336478 to *Massen et al.*

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7. ARGUMENT

A. Montet

A careful review of reveals a failure by *Montet*, among other things, to teach or suggest “screening ring” as recited in claims 1, 2, 4-7, 9 and 10.

Specifically, as shown in FIGS. 13-15, *Montet* teaches a cup-shaped axially positioned cap 400 serving as an optical screening means that partly surrounds a light source 150 for intercepting unreflected light rays from light source 150. In particular, *Montet* teaches cap 400 having side walls 420, 426 and 427 for intercepting unreflected light rays from light source 150. See, *Montet* at column 8, line 45 to column 9, line 13.

Examiner Lee respectfully asserts that side walls 420, 426 and 427 could be interpreted as screening rings under a broad reasonable interpretation of the claims.

The Appellant respectfully asserts that the broadest reasonable interpretation of claims 1, 2, 4-7, 9 and 10 is that a wall of a cap can not surround itself and therefore a screening ring must be deemed a separate and distinct entity from a wall of a cap, and that *Monet* must be understood for what *Monet* actually teaches and not for what *Monet* could teach. Thus, the Appellant respectfully asserts that side walls 420, 426 and 427 can not be interpreted as a “screening ring” surrounding cap 400 in view of the facts that (1) *Monet* teaches side walls 420, 426 and 427 are walls of cap 400 and thus cannot surround themselves; and (2) any reading of side walls 420, 426 and 427 as being separate and distinct entities from cap 400 contradicts the teachings of *Monet*. Thus, *Montet* fails to

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teach or suggest a "screening ring" as recited in claims 1, 2, 4-7, 9 and 10, particularly a screening ring for intercepting unreflected light rays from light source 150 that is not intercepted by the side walls 420, 426 and 427 of cap 400.

B. 35 U.S.C. §102(e)/103(a) Rejections of Claims 1, 2, 4-7, 9 and 10

(1) **Anticipation.** "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

In view of the fact that *Montet* fails to teach a standby mode, a sleep mode or the like, the Appellant respectfully asserts *Montet* fails to anticipate the following limitations of claims 1-3 and 9.

(2) **Group 1: Claims 1, 4 and 5.** The Appellant respectfully traverses the anticipation rejection of independent claim 1, because *Montet* fails to show "a cup-shaped axially positioned cap serving as an optical screening means that partly surrounds the light source for intercepting unreflected light rays, characterized in that the cap is

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surrounded at a distance d by a screening ring which extends over a height h in the direction of the light emission window” as recited in independent claim 1. Withdrawal of the rejection of independent claim 1 under 35 U.S.C. §102(e) as being anticipated by *Montet* is therefore respectfully requested.

Claims 4 and 5 depend from independent claim 1. Therefore, dependent claims 4 and 5 include all of the elements and limitations of independent claim 1. It is therefore respectfully submitted by the Applicant that dependent claims 4 and 5 are allowable over *Montet* in view of *Massen* for at least the same reason as set forth herein with respect to independent claim 1 being allowable over *Montet*. Withdrawal of the rejection of dependent claims 4 and 5 under 35 U.S.C. §103(a) as being unpatentable over *Montet* in view of *Massen* is therefore respectfully requested.

(3) Group 2: Claims 6, 9 and 10. The Appellant respectfully traverses the anticipation rejection of independent claim 6, because *Montet* fails to show “a cup-shaped axially positioned cap serving as an optical screening means that partly surrounds the light source for intercepting a first portion of unreflected light rays from the light source, characterized in that the cap is surrounded by a screening ring for intercepting a second portion of unreflected light rays from the light source” as recited in independent claim 6. Withdrawal of the rejection of independent claim 6 under 35 U.S.C. §102(e) as being anticipated by *Montet* is therefore respectfully requested.

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Claims 9 and 10 depend from independent claim 6. Therefore, dependent claims 9 and 10 include all of the elements and limitations of independent claim 6. It is therefore respectfully submitted by the Applicant that dependent claims 9 and 10 are allowable over *Montet* in view of *Massen* for at least the same reason as set forth herein with respect to independent claim 6 being allowable over *Montet*. Withdrawal of the rejection of dependent claims 9 and 10 under 35 U.S.C. §103(a) as being unpatentable over *Montet* in view of *Massen* is therefore respectfully requested.

(4) Group 3: Claims 2 and 7. The Appellant respectfully traverse the anticipation rejection of dependent claims 2 and 7, because *Montet* fails to show "the screening ring extends at the side facing the holder up to a plane transverse to the axis of symmetry and defined by the cup-shaped cap" as recited in dependent claims 2 and 7. Withdrawal of the rejection of dependent claims 2 and 7 under 35 U.S.C. §102(e) as being anticipated by *Montet* is therefore respectfully requested.

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Dated: January 2, 2007

Respectfully submitted,

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CLAIMS APPENDIX

1. A lighting unit provided with a concave reflector having an axis of symmetry and with a light emission window bounded by an edge of the reflector which surrounds the axis transversely thereto,
 - an elongate light source which is axially arranged substantially on the axis of symmetry and which is accommodated in a holder opposite the light emission window, and
 - a cup-shaped axially positioned cap serving as an optical screening means that partly surrounds the light source for intercepting unreflected light rays, characterized in that the cap is surrounded at a distance d by a screening ring which extends over a height h in the direction of the light emission window.
2. A lighting unit as claimed in claim 1, characterized in that, the screening ring extends at the side facing the holder up to a plane transverse to the axis of symmetry and defined by the cup-shaped cap.
4. A lighting unit as claimed in claim 1, wherein the reflector and the light source are indetachably integrated into a lamp.
5. A lighting unit as claimed in claim 4, characterized in that the lamp is a metal halide lamp with a ceramic discharge vessel.

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6. A lighting unit provided with a concave reflector having an axis of symmetry and with a light emission window bounded by an edge of the reflector which surrounds the axis transversely thereto,

- an elongate light source which is axially arranged substantially on the axis of symmetry and which is accommodated in a holder opposite the light emission window, and

- a cup-shaped axially positioned cap serving as an optical screening means that partly surrounds the light source for intercepting a first portion of unreflected light rays from the light source, characterized in that the cap is surrounded by a screening ring for intercepting a second portion of unreflected light rays from the light source.

7. A lighting unit as claimed in claim 6, characterized in that, the screening ring extends at the side facing the holder up to a plane transverse to the axis of symmetry and defined by the cup-shaped cap.

9. A lighting unit as claimed in claim 6, wherein the reflector and the light source are indetachably integrated into a lamp.

10. A lighting unit as claimed in claim 9, characterized in that the lamp is a metal halide lamp with a ceramic discharge vessel.

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EVIDENCE APPENDIX

None.

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RELATED PROCEEDINGS APPENDIX

None.